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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2011-885

12 **STEVE ALLAN SMITH**
13 **1843 West Cris**
14 **Anaheim, CA 92803**

A C C U S A T I O N

15 **Registered Nurse License No. 327417**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 31, 1981, the Board of Registered Nursing issued Registered
24 Nurse License Number 327417 to Steve Allan Smith (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on August 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Business and Professions Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISION

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states in pertinent part:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary

1 action against a person who holds a license, upon the ground that the
2 applicant or the licensee has been convicted of a crime substantially related
3 to the qualifications, functions, and duties of the licensee in question, the
4 record of conviction of the crime shall be conclusive evidence of the fact
5 that the conviction occurred, but only of that fact, and the board may inquire
6 into the circumstances surrounding the commission of the crime in order to
7 fix the degree of discipline or to determine if the conviction is substantially
8 related to the qualifications, functions, and duties of the licensee in question.

9 As used in this section, 'license' includes 'certificate,' 'permit,'
10 'authority,' and 'registration.'

11 9. Section 2761 of the Code states in pertinent part:

12 The board may take disciplinary action against a certified or licensed
13 nurse or deny an application for a certificate or license for any of the
14 following:

15 (a) Unprofessional conduct, which includes, but is not limited to, the
16 following:

17 ...

18 (f) Conviction of a felony or of any offense substantially related to the
19 qualifications, functions, and duties of a registered nurse, in which event the
20 record of the conviction shall be conclusive evidence thereof.

21 ...

22 REGULATORY PROVISIONS

23 10. California Code of Regulations, title 16, section 1444, states in pertinent part:

24 A conviction or act shall be considered to be substantially related to
25 the qualifications, functions or duties of a registered nurse if to a substantial
26 degree it evidences the present or potential unfitness of a registered nurse to
27 practice in a manner consistent with the public health, safety, or welfare.
28 Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those
violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant
to Section 290 of the Penal Code.

11. California Code of Regulations, title 16, section 1445 states in pertinent part:

...

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COSTS

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(April 25, 2005 Criminal Conviction for Corporal Injury to Spouse March 14, 2005)

13. Respondent is subject to disciplinary action under sections 490 and 2761 (f) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On April 25, 2005, in a criminal proceeding entitled *The People of the State of California v. Steven Allen Smith*, in Ventura County Superior Court, case number 2050009125, Respondent plead no contest to a misdemeanor violation of Penal Code section 273.5, Corporal Injury to Spouse/Cohabitant. Respondent was originally charged with both felony and misdemeanor violations of the Penal Code. Respondent was charged with felony violation of Penal Code section 12022.7(e), Spouse/Cohabitant and Infliction of Great Bodily

1 Injury/Domestic Violence, and a misdemeanor violation of Penal Code section 273.5, Corporal
2 Injury to Spouse/Cohabitant. The felony charge was dismissed pursuant to plea agreement.

3 b. As a result of his conviction Respondent was sentenced to three years summary
4 probation, ordered to perform 224 hours of community service, and ordered to pay \$1,973 in
5 fines.

6 c. The facts that led to the conviction are that on or about March 14, 2005,
7 Respondent beat and head-butted his wife until she required medical attention. On March 16,
8 2005 Respondent's wife, was interviewed by Ventura County Sheriff's Deputies at a hospital
9 emergency room. Respondent's wife reported that after an argument, Respondent became angry,
10 pushed her to the ground, pinned her down, and head-butted her in the nose. Respondent then
11 took his wife's car keys and cell phone and remained in her presence for two days to prevent her
12 from reporting his abuse. Respondent drove forty-five minutes from Thousand Oaks to Burbank
13 in order to get his wife's nose examined in a hospital that would not recognize him or report him
14 to the authorities.

15 DISCIPLINARY CONSIDERATIONS

16 14. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that on or about December 23, 1984, in a prior disciplinary action entitled *In*
18 *the Matter of the Accusation against Steve Allan Smith* before the Board of Registered Nursing,
19 Case Number 85-6, Respondent's license was revoked, revocation stayed, and placed on three (3)
20 years probation with terms and conditions, for violation of Code section 2761(a). After his
21 nursing license was placed on probation, Respondent petitioned for a reduction in penalty and
22 came before a quorum of the Board of Registered Nursing, Department of Consumer Affairs.
23 The Board of Registered Nursing fully reinstated Respondent's nursing license effective January
24 23, 1986. That decision and order are now final.

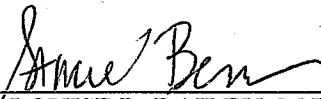
25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Registered Nursing issue a decision:
28

- 1 1. Revoking or suspending Registered Nurse License Number 327417, issued to Steve
2 Allan Smith;
3 2. Ordering Steve Allan Smith to pay the Board of Registered Nursing the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code section 125.3;
6 3. Taking such other and further action as deemed necessary and proper.
7

8
9 DATED: _____

4/26/11

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for)	
Reduction of Penalty of:)	
)
)
STEVEN ALLAN SMITH, R.N.,)	L-36511
)
)
)
Petitioner.)	
)

DECISION

This matter came on regularly for hearing before a quorum of the Board of Registered Nursing, Department of Consumer Affairs of the State of California, at San Diego, California, on January 23, 1986, at the hour of 9:00 a.m. The following members of the Board were present: Radell Fraser, R.N., President; Patricia Hunter, R.N.; Patty Majcher, R.N.; George Shipp, III; Lilly Spitz, J.D.; Margaretta Styles, R.N., Ed.D.; and Audry Vossler. Marguerite C. Geftakys, Administrative Law Judge of the Office of Administrative Hearings, presided. Laurence Kuperman, Deputy Attorney General, represented the Attorney General. Petitioner Steven Allan Smith appeared in person and represented himself. Evidence both oral and documentary having been received and the matter submitted, the Board makes the following findings of fact:

I

In 1980, Petitioner was issued license number U 327417 to practice registered nursing in the State of California by the Board of Registered Nursing.

II

Effective December 31, 1984, "In the Matter of the Accusation against Steven Allan Smith," Case No. 85-6, Petitioner's license to practice registered nursing was revoked by the Board pursuant to a stipulated settlement to a charge of unprofessional conduct in violation

of Business and Professions Code Section 2761(a). Petitioner made a misrepresentation of a material fact by presenting Advanced Cardiac Life Support and Cardiopulmonary Resuscitation certificates for the purpose of gaining employment, which he represented as valid when, in truth and in fact, he had altered expired dates to reflect future expiration dates. Said revocation was stayed and respondent was placed on probation for a period of three years.

III

On November 18, 1985, Petitioner filed a Petition for Reduction of Penalty; said petition is presently pending.

IV

Petitioner's evidence established that he has been rehabilitated since the revocation of his license. Recidivism is most unlikely as petitioner is genuinely contrite.

* * * * *

Pursuant to the foregoing findings of fact, the Board makes the following determination of issues:

Petitioner did establish that his probation may be safely terminated pursuant to the provisions of Business and Professions Code Section 2760 in conjunction with Government Code Section 11522, taking into consideration the health, welfare, and safety of the public.

* * * * *

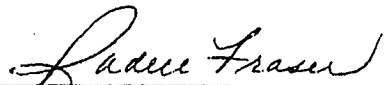
WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. The Petition for Reduction of Penalty of Steven Allan Smith is hereby granted.
2. The order of revocation and probation of Petitioner's license is hereby permanently stayed and said license is fully restored.

This decision shall become effective on January 23, 1986.

IT IS SO ORDERED this 11th day of March, 1986.

BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


RADELL FRASER, R.N., President

MCG:btm

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California

2 ALAN S. METH,
Deputy Attorney General

3 110 West A Street, Suite 700
San Diego, California 92101
4 Telephone: (619) 237-7224

5 Attorneys for Complainant

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BEFORE THE BOARD OF REGISTERED NURSING

8

DEPARTMENT OF CONSUMER AFFAIRS

9

STATE OF CALIFORNIA

10

11 In the Matter of the Accusation)
Against:)

No. 85-6

12

STEVE ALLAN SMITH)
2360 Harbor Boulevard, #204)
Costa Mesa, California 92626)

STIPULATION IN
SETTLEMENT AND
DECISION

14

License No. U-327417)

15

Respondent.)

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IT IS HEREBY STIPULATED by and between the parties in
the above-entitled matter as follows:

20

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1. Accusation No. 85-6 is currently pending against
STEVE ALLAN SMITH, R.N., (hereinafter referred to as "respondent")
before the Board of Registered Nursing (hereinafter referred to
as "Board").

24

25

2. Accusation No. 85-6 has been duly served upon
respondent and a notice of defense has been filed.

26

27

3. Respondent is fully aware of the charges and
allegations contained in Accusation No. 85-6.

1 4. Respondent is fully aware of his right to a
2 hearing on the charges and allegations contained in Accusation
3 No. 85-6, his right to reconsideration, appeal, and any and all
4 other rights which may be accorded him pursuant to the
5 Administrative Procedure Act.

6 5. Respondent hereby freely and voluntarily waives
7 his rights to a hearing, reconsideration, appeal, and any and
8 all other rights which may be accorded him by the Administrative
9 Procedure Act with regard to Accusation No. 85-6.

10 6. Respondent admits that each and every allegation
11 of the accusation is true and that cause exists thereby to
12 impose discipline upon his license for violating sections
13 2761(a) of the Code. The facts alleged in paragraph 4 of the
14 Accusation are incorporated herein by reference. This admission
15 is made for the purpose of this stipulation only, and in the
16 event this stipulation is not adopted by the Board, the
17 admissions made herein shall be inadmissible in any proceeding
18 involving the parties to it.

19 WHEREFORE, IT IS STIPULATED the Board may, without
20 further notice of formal proceeding, issue and enter the
21 following decision:

22 A. License No. 85-6 issued to respondent STEVE ALLAN
23 SMITH, is revoked; provided, however, the revocation is hereby
24 stayed and respondent is placed on probation for a period of
25 3 years upon the following terms and conditions:

26 1. Respondent shall obey all the laws of the United
27 States, State of California, and its political subdivisions,

1 and all rules and regulations and laws pertaining to the
2 practice of nursing in this state.

3 2. Respondent shall fully and completely comply with
4 the Probation Program established by the Board, and
5 cooperate with representatives of the Board.

6 3. During the period of probation, respondent shall
7 report in person to such meetings of the Board of Registered
8 Nursing, or its designated representatives, as directed.

9 4. In the event respondent should leave California
10 to reside or practice outside of the state, respondent must
11 notify the Board in writing of the dates of departure and
12 return. Reporting in person may be waived if the respondent
13 moves out of state. If employed in another state as a
14 registered nurse, the respondent must submit to the Board
15 written documentation that the other Board is aware of the
16 reason for and terms of probation. The respondent must
17 continue compliance with all other terms to retain
18 California licensure. Periods of residency or practice
19 outside the State of California will not apply to the
20 reduction of this probationary term.

21 5. During the period of probation, respondent shall
22 submit such written reports and verification of actions as
23 are required by the Board.

24 6. If employed in nursing at any time during the
25 period of probation, respondent shall have the employer
26 submit to the Board written verification that the employer

27 /

1 and the probationer's immediate supervisor understand the
2 conditions of probation.

3 7. The Board shall be informed of and approve of the
4 type of supervision provided while the respondent is
5 functioning as a registered nurse.

6 9. Respondent shall obtain prior approval of the
7 place of employment from the Board. Respondent may not
8 work for a nurses registry.

9 B. In the event that during the above-mentioned
10 period of probation respondent does not comply with the terms
11 and conditions as set forth hereinabove, the Board after notice
12 to respondent and after providing him with an opportunity to be
13 heard, may terminate the stay of revocation and order of
14 probation or make such other order modifying or changing the
15 terms of probation herein as the Board shall deem proper.

16 C. In the event that respondent complies with all
17 the terms and conditions of probation as set forth hereinabove,
18 upon the expiration of the above-described period of probation,
19 the stay of revocation of respondent's license to practice
20 registered nursing shall become permanent and respondent's
21 license shall be fully restored.

22 D. This stipulation in settlement shall be subject
23 to the approval of the Board of Registered Nursing. If the
24 Board fails to approve this stipulation in settlement it shall
25 be of no force or effect for either party.

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DATED: November 30, 1984

Catherine Puri, RN, PhD
CATH. RINE M. PURI, R.N., Ph.D.
Executive Officer
Board of Registered Nursing
Complainant

DATED: OCT 9, 1984

Alan S. Meth
ALAN S. METH
Deputy Attorney General
Attorney for Complainant

DATED: 9/30/84

Steve Allan Smith
STEVE ALLAN SMITH
Respondent

DECISION

The foregoing stipulation in settlement of Case No.
85-6 is accepted by the Board of Registered Nursing as its
decision and shall become effective on the 31st day of
December, 1984.

Lester W. Bulluck
BOARD OF REGISTERED NURSING

ASM:sol

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of the State of California

2 ALAN S. METH

Deputy Attorney General

3 110 West A Street, Suite 700

San Diego, California 92101

4 Telephone: (619) 237-7224

5 Attorneys for Complainant

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BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

9

10

11 In the Matter of the Accusation)
Against:)

No. 85-6

12

STEVE ALLAN SMITH, R.N.)

ACCUSATION

13

2360 Harbor Boulevard, #204)

Costa Mesa, California 92626)

14

License No. U-327417)

15

Respondent.)

16

17 Catherine M. Puri, R.N., Ph.D., for causes for disci-
18 pline, alleges:

19

20 1. Complainant Catherine M. Puri, R.N., Ph.D., makes
21 and files this accusation in her official capacity as Executive
22 Officer, Board of Registered Nursing, Department of Consumer
23 Affairs.

24

25 2. On March 31, 1981, registered nurse license number
26 U-327417 was issued to respondent Steve Allan Smith. At all
27 times pertinent herein, the license was in full force and effect.

1 3. Under Business and Professions Code section 2750,
2 the Board of Registered Nursing may discipline any licensee,
3 including a licensee holding a temporary or an inactive license,
4 for any reason provided in Article 3 of the Nursing Practice Act.

5
6 4. Respondent has subjected his license to discipline
7 under Business and Professions Code section 2761(a) on the
8 grounds of unprofessional conduct in that on October 16, 1983, in
9 order to obtain employment as a registered nurse in the emergency
10 room of Mercy General Hospital, 2701 South Bristol Street, Santa
11 Ana, respondent misrepresented a material fact by submitting
12 expired Advanced Cardiac Life Support and Cardiopulmonary
13 Resuscitation certificates which he had altered to show future
14 expiration dates.

15
16 WHEREFORE, complainant prays a hearing be had and that
17 the Board of Registered Nursing make its order:

18 1. Revoking or suspending registered nurse license
19 number U-327417, issued to Steve Allan Smith.

20 2. Taking such other and further action as may be
21 deemed appropriate.

22 DATED: July 17, 1984

23 Catherine M. Puri
24 CATHERINE M. PURI, R.N., Ph.D.
25 Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
State of California

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Complainant

2.